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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/649,146

08/27/2003

Marius Buibas

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02/28/2006

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EXAMINER

ADAMS, GREGORY W

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 02/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/649,146		BUIBAS ET AL.	
	Examiner		Art Unit	
	Gregory W. Adams		3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 19-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Withdrawal of Finality

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Applicant responded to a notation of allowable subject matter by rewriting said allowable claims into independent form. In response, the previous Examiner issued a final office action based on new art on September 13, 2005. This should have been a new non-final office action. Thus, the finality of the Sept. 13, 2005 office action is withdrawn and this new non-final office action is issued. New claims 20-24 have been addressed on the merits.

General Comments

This Application has been transferred to Examiner Gregory W. Adams.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 4-6, 8-13, 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Okuzawa (US 4,888,617) (previously cited).

With respect to claims 1, 8, 19, 22-24, Okuzawa discloses a back stop, tray 62 and biasing means 66 that pivots on a hinge 64.

With respect to claim 4 & 11, Okuzawa discloses a base member 60.

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With respect to claim 5, 12, 20-21, Okuzawa discloses a bias means between a tray 62 and base member 66, and further a bias means that extends below a tray. With respect to configuring a tray to catch objects Further, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. In this case Okuzawa's tray is certainly capable of catching objects because it has a bottom, sides, and open top such that objects could be dropped in.

With respect to claim 6 & 13, Okuzawa discloses a hinge 64.

With respect to claim 9, Okuzawa discloses a back stop attached to a tray.

With respect to claim 10, Okuzawa discloses a back stop that does not pivot.

2. Claims 1, 4-6, 8-13, 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Komori (US 3,919,972) (previously cited).

With respect to claim 1, 8, 19, 22-24, Komori discloses a backstop, tray 5, biasing means 6, base member 1 & hinge 12.

With respect to claim 4 & 11, Komori discloses a base member 1.

With respect to claim 5, 12, 20-21, Komori discloses bias means 6 disposed between a tray 5 and base member 1, and further discloses a bias means 6 that extends below a tray.

With respect to claim 6 & 13, Komori discloses a hinge 12.

With respect to claim 9, Komori discloses a back stop attached to a tray 5.

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With respect to claim 10, Komori discloses that a back stop does not pivot with a tray 5.

3. Claims 1-2, 4-6, 8-13 & 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Okada (US 5,183,248) (previously cited).

With respect to claim 1, 8, 19, 22-24, Okada discloses a back stop (FIG. 3), tray 13, biasing means U, base member 10, and hinge 15.

With respect to claim 2, Okada discloses that a tray 13 and back stop are fixed relative to each other.

With respect to claim 3, Okada discloses a back stop pivotal about a vertex.

With respect to claim 4 & 11, Okada discloses a base member 10.

With respect to claim 5, 12, 20-21, Okada discloses a bias means U disposed between a tray 13 and base member 10 and further discloses a bias means U that extends below a tray 5.

With respect to claim 6 & 13, Okada discloses a hinge 15.

With respect to claim 9, Okada discloses a back stop attached to a tray 13. FIG. 3.

With respect to claim 10, Okada discloses a back stop does not pivot with a tray.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okuzawa in view of Kim (US 2002/0084576) (previously cited). Okuzawa does not disclose a backstop pivotal about the vertex of the tray and the backstop. Kim teaches pivotally mounting a back stop (32 or 132) so as to be "pivotal about the vertex of the tray (31 or 131) and the back stop (32 or 132)" for the purpose of providing for a means to slant a stack of sheets thus enabling easier receiving and arranging of paper in a cassette body. Paras. [0007-0010]. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Okuzawa to include a vertex pivotal backstop, as per the teachings of Kim, to make easier paper receiving and arranging.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Komori in view of Kim (US 2002/0084576) (previously cited). Komori does not disclose the backstop pivotal about the vertex of the tray and the backstop. Kim teaches pivotally mounting a back stop (32 or 132) so as to be "pivotal about the vertex of the tray (31 or 131) and the back stop (32 or 132)" for the purpose of providing for a means to slant a stack of sheets thus enabling easier receiving and arranging of paper in a cassette body. Paras. [0007-0010]. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Komori to include a vertex pivotal backstop, as per the teachings of Kim, to make easier paper receiving and arranging.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Okada in view of Kim (US 2002/0084576) (previously cited). Okada does not disclose a backstop

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pivotal about the vertex of the tray and the backstop. Kim teaches pivotally mounting a back stop (32 or 132) so as to be “pivotal about the vertex of the tray (31 or 131) and the back stop (32 or 132)” for the purpose of providing for a means to slant a stack of sheets thus enabling easier receiving and arranging of paper in a cassette body. Paras. [0007-0010]. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Okada to include a vertex pivotal backstop, as per the teachings of Kim, to make easier paper receiving and arranging.

7. Claims 7 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okuzawa in view of Sellers (US 5,085,421) (previously cited). Okuzawa does not disclose a conveyor means for projecting an object into a tray. Sellers teach conveyors means (FIG. 2, 3A, 3B) for the purpose of projecting objects into a tray and thus providing for an automatic reloading/replenishing function. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Okuzawa to add a conveyor means, as per the teachings of Sellers, for automatic reloading/replenishing.

8. Claims 7 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Komori in view of Sellers (US 5,085,421) (previously cited). Komori does not disclose a conveyor means for projecting an object into a tray. Sellers teach conveyors means (FIG. 2, 3A, 3B) for the purpose of projecting objects into a tray and thus providing for an automatic reloading/replenishing function. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the

apparatus of Komori to add a conveyor means, as per the teachings of Sellers, for automatic reloading/replenishing.

9. Claims 7 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okada in view of Sellers (US 5,085,421) (previously cited). Okada does not disclose a conveyor means for projecting an object into a tray. Sellers teach conveyors means (FIG. 2, 3A, 3B) for the purpose of projecting objects into a tray and thus providing for an automatic reloading/replenishing function. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Okada to add a conveyor means, as per the teachings of Sellers, for automatic reloading/replenishing.

Response to Arguments

With respect to Okuzawa and claims 1, 8 & 19, in response to applicant's argument that Okuzawa does not disclose a "tray for catching" & "spring configured for catching", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case Okuzawa could certainly be used for catching as it has sides, bottom and an open top. Yielding which means "inclined to give way" (www.dictionary.com) is evidenced by the fact that Okuzawa's FIG. 3 discloses a full stack of sheets C pressing down on tray 62 such that a biasing means 66a(b) is fully (or nearly fully) compressed. Generally, all springs used

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in this manner exhibit similar characteristics in that they provide a resistive force if compressed. Okuzawa discloses this in FIG. 3, and applicant admits this, e.g.

"Okuzawa merely discloses a plate 62 which is urged against corner teeth 72a(b) by coil springs 66a." Applicants Remarks, Page 6. It is noted that "catching" is to "capture or seize" (www.dictionary.com). Okuzawa, Komori or Okada "capture" articles by providing the structure such that once placed inside the articles movement is restricted.

With respect to Komori and claims 1, 4-6, 8-13 & 19, and like Okuzawa above Applicant argues a "catching" function but does not recited structure which defines over Komori. Further, Komori's tray 5 can catch for at least the reason that it has sides, bottom and an open top. Further, the biasing means 6 (or 44) further provide an upward force against the weight of a stack P.

With respect to Okada and claims 1-6, 8-13 & 19, and like Okuzawa and Komori above Okada discloses a tray that catches for at least the reason that it has sides, bottom and an open top as well as biasing means U that resist downward movement and/or provide a force upward. Okada, as well as Okuzawa and Komori, disclose structure that is capable of catching, e.g. a tray that is supported by biasing means.

With respect to claims 3, 7 & 14, Applicant argues allowability based on claims 1 & 8 being allowable are moot given the above arguments directed to claims 1 & 8.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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